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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,282	06/24/2003	Heinz-Gunter Weissenberg	Bayer 10254-WCG	9134
27386	7590	01/25/2006	EXAMINER	
NORRIS, MCLAUGHLIN & MARCUS, P.A. 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			LITHGOW, THOMAS M	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/602,282	<b>Applicant(s)</b> WEISSENBERG ET AL.	
	<b>Examiner</b> Thomas M. Lithgow	<b>Art Unit</b> 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 36-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 28 Aug 2003.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

  
**THOMAS M. LITHGOW**  
**PRIMARY EXAMINER**  
**GROUP 1700**

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of the dissolver claims 1-35 in the reply filed on 27 October 2005 is acknowledged. The traversal is on the ground(s) that there is a burden on everybody except the PTO. This is not found persuasive because the search of the subcombination is separately provided for in the classification systems. Further the EPO examiner divided the case supports the position of restriction. As the original restriction is proper it is maintained.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the

invention. Claim 1, line 5 recites "tubes" (4) but later in the claim in line 8, the claim recites "dissolver tubes". Therefore the phrase "dissolver tubes" lacks antecedent basis. Claim 15 depends from itself and is therefore indefinite. Claim 15 will be treated as if dependent from claim 1.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7, 12-13 and 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 191104. DE '104 discloses a pressure saturation vessel g (see fig. 2) with a liquid nozzle c and an aligned dissolver tube d having an open top and closed bottom. Claims 2-3 does not recite any structure. Suggested language might be –a source of water connected to said one or more nozzles--.

Claims 5-6 are method limitations which do not recite structural limitations. This applies to claims 12-13 and 24-28 also.

6. Claims 1-7, 9-14, 24-29 and 35 are rejected under 35

U.S.C. 102(b) as being anticipated by FR 1375822. F '822 discloses a pressure vessel 1 with a nozzle 8 and an aligned dissolver tube 9 and a liquid outlet near 2 below the dissolver tube.

7. Claims 1-8, 12-16 and 24-28 are rejected under 35

U.S.C. 102(b) as being anticipated by Beurer (US 4100071). Beurer '071 discloses a pressure vessel 1 with a nozzle 10 and an aligned tube 20 which is open at the top and closed at the bottom.

8. Claims 1-15, 24-30 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Albrektsson (US 2793185). Albrektsson '185 discloses a gas dissolver 10 (see fig. 2) in which a nozzle 73 jets water into an aligned tube 74 which has an open top and a closed bottom.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albrektsson '185 as applied to claim 1 above, and further in view of Sinn (US 3755452). The use of plural nozzles with corresponding plural open topped and closed bottom tubes in a gas-liquid mixer is well known as taught by Sinn '452 [col. 3, lines 38]. Specifically, one may employ a single nozzle as depicted in fig. 1 (or as shown in Albrektsson '185) or as taught by Sinn '452 plural nozzles. The use of four is within the scope of plural.

11. Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albrektsson '185 as applied to claim 30 above, and further in view of either one of Yang (US 6067854) or Lovett (US 5136884). Either of Yang '854 or Lovett '884 discloses the use of water level guage with a magnetic float to accurately measure the liquid level in the closed tank. As Yang '854 or Lovett '884 discloses it is desirable to measure and control the liquid level (see level measurer 33) it would have been obvious to use equivalent structure a disclosed in either one of Yang '854 or Lovett '884 to measure the desired liquid level in Albrektsson '185.

***Allowable Subject Matter***

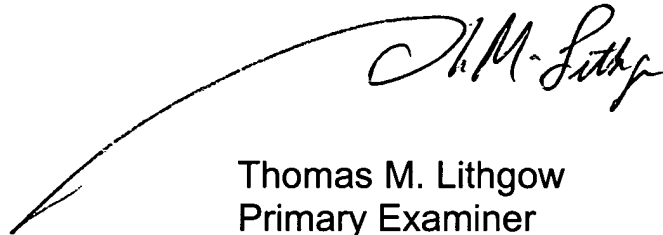
12. Claims 22-23 and 33-34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Lithgow whose telephone number is 571-272-1162. The examiner can normally be reached on Mon. -Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "T.M. Lithgow", with a long, sweeping horizontal stroke extending to the left.

Thomas M. Lithgow  
Primary Examiner  
Art Unit 1724

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